

# Hearing Officer Transmittal Checklist

Hearing Date  
1/21/2014  
Agenda Item No.  
TBD

**Project Number:** R2013-02657-(3), R2013-02658-(3)  
**Case(s):** Conditional Use Permit Nos. 201300139, 201300140  
**Planner:** Jarod Nygren

- ☒ Project Summary
- ☒ Property Location Map
- ☒ Staff Analysis
- ☐ Draft Resolution / Draft Ordinance / 8.5x11 Map (ZC or PA)
- ☒ Draft Findings
- ☒ Draft Conditions
- ☒ Burden of Proof Statement(s)
- ☐ Environmental Documentation
- ☒ Correspondence
- ☐ Photo Simulations
- ☐ Aerial Image(s)
- ☐ Land Use/Zoning Map
- ☐ Tentative Tract / Parcel Map
- ☒ Site Plan / Floor Plans / Elevations
- ☐ Exhibit Map
- ☐ Landscaping Plans
- ☒ Site photographs

Reviewed By: 



Department of Regional Planning  
320 West Temple Street  
Los Angeles, California 90012

## PROJECT NUMBERS

R2013-02657-(3), R2013-02658-(3)

## REQUESTED ENTITLEMENTS

CUP 201300139, CUP 201300140

# PROJECT SUMMARY

### OWNER / APPLICANT

Sprint Nextel

### MAP/EXHIBIT DATE

9/3/2013

### HEARING DATE

1/21/2014

## PROJECT OVERVIEW

The applicant, Sprint Nextel, requests continuation of two conditional use permits ("CUPs") to authorize the continued operation and maintenance of each of the two existing wireless telecommunications facilities consisting of antennas and equipment cabinets mounted on existing utility poles located in the Mulholland Highway public right of way. The two wireless facilities were approved by CUP No. 03-200-(3) and CUP No. 03-202-(3). Both CUPs expire on April 7, 2014.

## ENVIRONMENTAL DETERMINATION (CEQA)

Class 1 Categorical Exemption-Existing Facilities

Project Data		Project Data	
Project No. R2013-02657-(3) CUP No. 201300139		Project No. R2013-02658-(3) CUP No. 201300140	
Location	24816 ½ Mulholland Highway	Location	26403 ½ Mulholland Highway
APN	Adjacent to APN 4455-019-027	APN	Adjacent to APN 4455-033-909
Zoned District	The Malibu Zoned District	Zoned District	The Malibu Zoned District
Land Use Plan	Malibu Coastal Plan	Land Use Plan	Malibu Coastal Plan
Land Use Designation	Rural Land I (6)	Land Use Designation	Rural Land III (5)
Zone	A-1-1 (Light Agricultural – 1 Acre Minimum Required Lot Area)	Zone	O-S-DP (Open Space-Development Program)
CSD	N/A	CSD	N/A
Map/Exhibit Date	9/3/2013	Map/Exhibit Date	9/3/2013

## KEY ISSUES

- Consistency with the Los Angeles County General Plan and the Malibu Coastal Plan
- Satisfaction of the following Section(s) of Title 22 of the Los Angeles County Code:
  - 22.56.040 (Conditional use permit burden of proof requirements)

### CASE PLANNER:

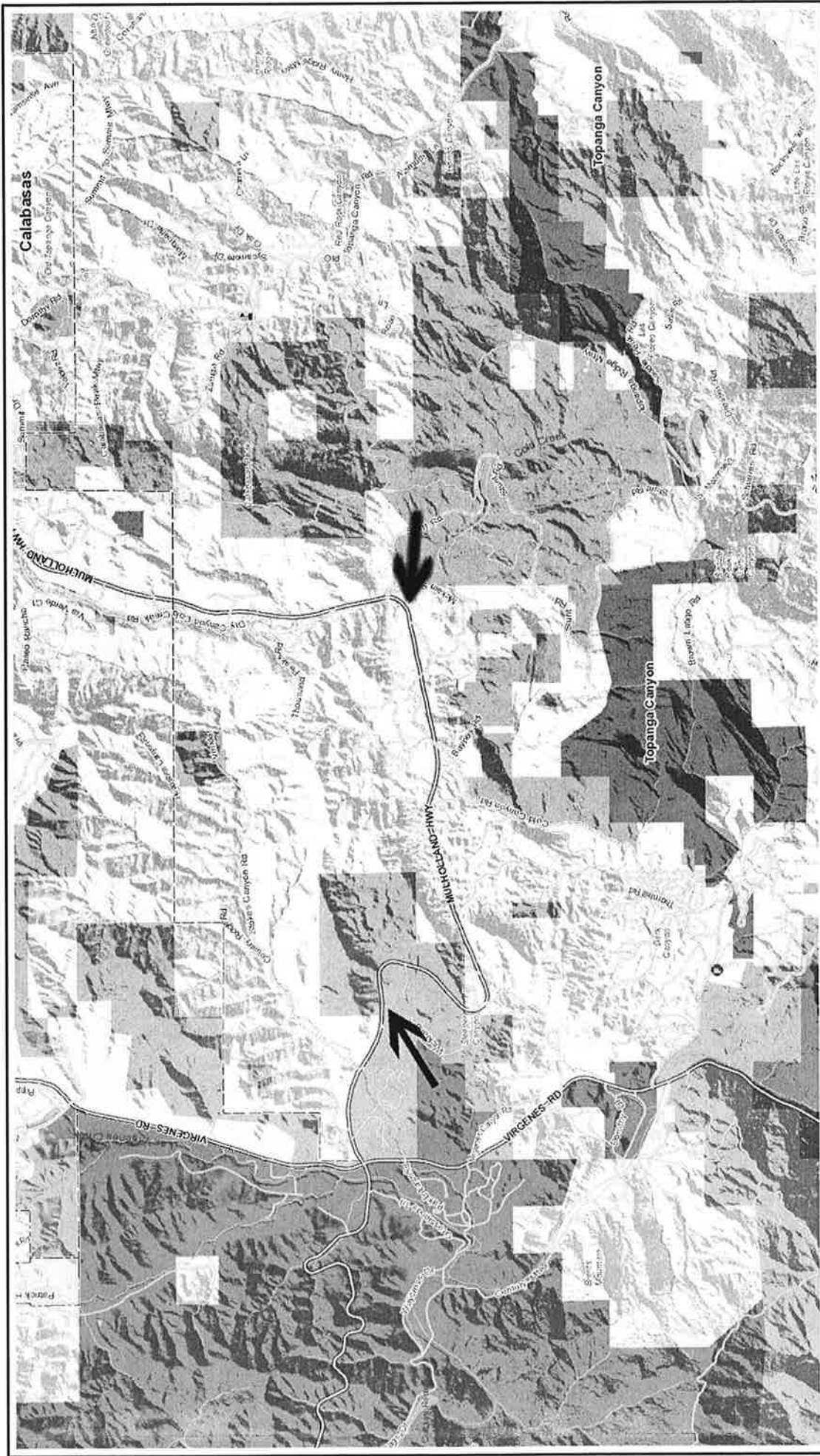
Jarod Nygren

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jnygren@planning.lacounty.gov

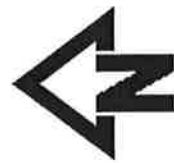


# Department of Regional Planning

## Mulholland Wireless

Printed: Dec 10, 2013

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### **ENTITLEMENTS REQUESTED**

Conditional Use Permits (CUPs) for the continued operation and maintenance of two (2) wireless telecommunications facilities located in the public right-of-way in the following zones and pursuant to the following County Code sections:

- Project No. R2013-002657-(3)/RCUP201300139 in the A-1-1 (Light Agricultural – 1 Acre Minimum Required Lot Area) pursuant to County Code Section 22.24.100.
- Project No. R2013-02658-(3)/RCUP201300140 in the O-S-DP (Open Space - Development Program) Zone pursuant to County Code Section 22.40.430.

### **PROJECT DESCRIPTION**

The project is a request for CUPs to authorize the continued use of two (2) wireless telecommunications facilities located in the public right-of-way along Mulholland Highway in the Malibu Coastal Zone. The wireless facility located on project site 1 was approved by CUP No. 03-200-(3) and project site 2 was approved by CUP No. 03-202-(3) on April 7, 2004 and the permits will expire on April 7, 2014. There are no changes to the previously approved facilities, which contain the following project details:

<b>Project Site</b>	<b>Project Numbers Location</b>	<b>Location</b>	<b>Project Details</b>
1	Project No. R2013-02657-(3) CUP No. 201300139	24816 ½ Mulholland Highway (Adjacent to APN 4455-019-027)	Two inverted whip antennas mounted on an existing utility pole approximately 26 feet above grade level with an associated equipment cabinet mounted on the pole.
2	Project No. R2013-02658-(3) CUP No. 201300140	24603 ½ Mulholland Highway (Adjacent to APN 4455-033-909)	Two panel antennas mounted on an existing utility pole approximately 27 feet above grade level with an associated equipment cabinet mounted on the pole.

### **SITE PLAN DESCRIPTION**

The site plan for project site 1 depicts a wireless telecommunications facility located on a 64.5-foot utility pole within the Mulholland Highway public right of way. The elevations depict two whip antennas located approximately 26-feet from grade and the equipment cabinet mounted on the pole at approximately 9-feet above grade. The site plan for project site 2 depicts a wireless telecommunications facility located on a 61-foot utility pole located within the public right of way. The elevations depict two panel antennas located approximately 27-feet above grade and the equipment cabinet mounted on the pole at approximately 9-feet above grade.

### **EXISTING ZONING**

Both of the wireless telecommunications facilities are located in the public right-of-way along Mulholland Highway. However, pursuant to Section 22.16.020, the zoning for the

properties adjacent to the project sites extend to the centerline of the right-of-way. The zoning and surrounding zoning for the project sites are as follows:

<b>Project Site</b>	<b>Project Numbers</b>	<b>Project Site Zone and Surrounding Zoning Designations</b>
1	Project No. R2013-02657-(3) CUP No. 201300139	A-1-1. Surrounding zones are A-1-1 in all directions.
2	Project No. R2013-02658-(3) CUP No. 201300140	O-S-DP. Surrounding zones are A-1-20 to the west and OS-DP to the south, east and north.

### **EXISTING LAND USES**

Both of the wireless telecommunications facilities are located in the public right-of-way along Mulholland Highway and are mounted on existing utility poles. The land uses that surround the project sites are as follows:

<b>Project Site</b>	<b>Project Numbers</b>	<b>Project Site Surrounding Land Uses</b>
1	Project No. R2013-02657-(3) CUP No. 201300139	Single-family to the north, south, east and west.
2	Project No. R2013-02658-(3) CUP No. 201300140	Undeveloped to the east and north, King Gillette Ranch to the west and vacant land and single-family residences to the south.

### **PREVIOUS CASES/ZONING HISTORY**

Project site 1 was approved by CUP No. 03-200-(3) and project site 2 by CUP No. 03-202-(3). Both CUPs were approved on April 7, 2004 and will expire on April 7, 2014.

### **ENVIRONMENTAL DETERMINATION**

Los Angeles County ("County") Staff recommends that these projects qualify for a Categorical Exemption (Class 1 Exemption, Existing Facilities, under the California Environmental Quality Act (CEQA) and the County environmental guidelines. The project is a request to continue the use of two existing wireless facilities with no proposed changes. Therefore, staff recommends that the Hearing Officer determine that the project is categorically exempt from CEQA.

### **STAFF EVALUATION**

#### General Plan/Community Plan Consistency

Project site 1 is located within the 6-Residential 1 land use designation and project site 2 is located within the 5-Rural Land III land use designation of the Malibu Local Coastal Plan. Unmanned wireless telecommunications facilities are not uses that are explicitly referenced in the Malibu Local Coastal Plan. While this type of use is not referenced, it is consistent with the aforementioned land use designations in that they preserve the aesthetic values by being mounted on existing utility poles and use colors that blend in with the surroundings. As the project does not propose any changes to the existing wireless facilities and there have been no new land use policies regarding wireless

facilities in the public right-of-way in these land use plans, the project is consistent with their respective land use plans.

The project is also consistent with the following policy of the Malibu Local Coastal Plan:

*"In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall: be visually compatible with and subordinate to the character of its setting; be sited so as not to significantly intrude into the skyline as seen from public viewing places."*  
(Policy 130, page 33)

The project preserves aesthetic value of scenic highways and skylines as the wireless facilities are mounted on existing utility poles. The wireless facilities are painted to blend in with the surrounding area and therefore result in negligible visual impacts.

#### Zoning Ordinance and Development Standards Compliance

Wireless telecommunications facilities are not a defined use in the County Code; therefore, staff have used "radio and television stations and towers" as a comparable use. Radio and television stations and towers require a CUP in all zones. Both of the wireless telecommunications facilities are located in the public right-of-way along Mulholland Highway and are mounted on existing utility poles in the A-1 and O-S-DP zones. There are no applicable base zone development standards that would apply to a wireless facility mounted on an existing utility pole in the public right-of-way; however, the facility is subject to the development standards in the Subdivision and Zoning Ordinance Policy No. 01-2010 for wireless telecommunication facilities.

#### Wireless Telecommunication Facility Standards

Both of the wireless telecommunications facilities are compliant with the following applicable Departmental standards for wireless projects in the public right-of-way:

- **Height:** No wireless facility in the public right-of-way shall exceed 50 feet above grade level. The poles on which the wireless telecommunications facilities are mounted are existing utility poles which are 64.5-foot (project site 1) and 61-foot (project site 2) tall. However, the wireless equipment is mounted at a maximum height of approximately 26 feet on project site 1 and approximately 27 feet maximum height on project site 2. Although the utility pole is higher than the maximum height permitted by the policy memo, the telecommunications facilities are lower than 50 feet above grade level permitted. Therefore, the project complies with this requirement.
- **Placement:** Wireless facilities in the public right-of-way shall not interfere or obstruct highways, trails, sidewalks or any other public or private access. The existing two wireless facilities that are mounted on exiting utility poles do not interfere or obstruct access to any highway, trail, sidewalk, or private or personal access. Therefore, the project complies with this requirement.

Significant Ecological Areas (SEA)

Project site 1 is located within SEA Buffer Area (B5). The project was reviewed by the Significant Ecological Area Technical Advisory Committee (SEATAC) as required by Section 22.56.215.H.2 on December 2, 2013. SEATAC approved the project as a consent item since it is an existing facility within the public-right-of-way.

Site Visit

Staff visited the two project locations on October 3, 2013 and the sites were in compliance with the submitted exhibits.

Burden Of Proof

The applicant is required to substantiate all the facts identified by Section 22.56.040 of the County Code. The Burden of Proof with applicant's responses is attached. Staff is of the opinion that the applicant has met the Burden of Proof.

Neighborhood Impact/Land Use Compatibility

The two wireless telecommunications facilities have been in existence since 2004 and there has been no record of public complaints or zoning violations for any of the sites. The aesthetic impact of wireless facilities has been addressed by placing the facilities on existing utility poles in the public right-of-way, and the facilities would continue as constructed with no changes. The wireless facilities provide important communications infrastructure to rural areas of the County, and the two facilities do not negatively impact the areas or neighborhoods in which they are located.

**COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS**

The Los Angeles County Department of Public Works (DPW) was consulted on this permit request. The two wireless facilities were approved in 2004 and were required to obtain encroachment permits from DPW as they are located in the public right-of-way. The applicant has provided records of the encroachment permits and as the facilities are existing structures and since no changes are proposed, DPW has stated that they do not require any further review.

**OTHER AGENCY COMMENTS AND RECOMMENDATIONS**

As the project is the continuation of an existing wireless telecommunication facility, no other agencies were required to comment.

**LEGAL NOTIFICATION AND PUBLIC OUTREACH**

Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting.

**PUBLIC COMMENTS**

Staff has not received any comments at this time.

**FEES/DEPOSITS**

If approved, fees identified in the attached project conditions will apply unless modified by the Hearing Officer.

**STAFF RECOMMENDATION**

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:

Staff recommends **APPROVAL** of the following projects, subject to the attached conditions.

- Project No. R2013-02657-(3) / CUP No. 201300139
- Project No. R2013-02658-(3) / CUP No. 201300140

**SUGGESTED APPROVAL MOTION:**

**I, THE HEARING OFFICER, CLOSE THE PUBLIC HEARING, FIND THAT THE PROJECT IS CATEGORICALLY EXEMPT PURSUANT TO STATE AND LOCAL CEQA GUIDELINES, AND APPROVE CONDITIONAL USE PERMIT NUMBERS 201300139, 201300140 SUBJECT TO THE ATTACHED FINDINGS AND CONDITIONS.**

Prepared by Jarod Nygren, Senior Regional Planner, Zoning Permits West Section  
Reviewed by Mi Kim, Supervising Regional Planner, Zoning Permits West Section

**Attachments:**

Draft Findings  
Draft Conditions of Approval  
Applicant's Burden of Proof statement  
Site Photographs, Aerial Image  
Site Plan

MKK:JN  
9/30/13



**DRAFT FINDINGS AND ORDER OF THE HEARING OFFICER  
COUNTY OF LOS ANGELES  
PROJECT NOS. R2013-02657-(3), R2013-02658-(3)  
CONDITIONAL USE PERMIT NOS. 201200139, 201300140**

1. **ENTITLEMENTS REQUESTED.** Conditional Use Permits (CUPs) for the continued operation and maintenance of two (2) wireless telecommunications facilities located in the public right-of-way in the following zones and pursuant to the following County Code sections:
  - Project No. R2013-002657-(3)/R201300139 in the A-1-1 (Light Agricultural – 1 Acre Minimum Required Lot Area) pursuant to County Code Section 22.24.100.
  - Project No. R2013-02658-(3)/RCUP201300140 in the O-S-DP (Open Space - Development Program) Zone pursuant to County Code Section 22.40.430.
2. **HEARING DATE.** January 21, 2014
3. **PROCEEDINGS BEFORE THE HEARING OFFICER.**
4. **PROJECT DESCRIPTION.** The project is a request for CUPs to authorize the continued use of two (2) wireless telecommunications facilities located in the public right-of-way along Mulholland Highway in the Malibu Coastal Zone. The wireless facility located on project site 1 was approved by CUP No. 03-200-(3) and project site 2 was approved by CUP No. 03-202-(3) on April 7, 2004. The permits will expire on April 7, 2014. There are no changes to the previously approved facilities, which contain the following project details:

Project Site	Project Numbers	Project Details
1	Project No. R2013-02657-(3) CUP No. 201300139	Two inverted whip antennas mounted on an existing 64.5-foot tall utility pole approximately 26 feet above grade level with associated equipment cabinet mounted on the pole.
2	Project No. R2013-02658-(3) CUP No. 201300140	Two panel antennas mounted on an existing 61-foot tall utility pole approximately 27 feet above grade level with associated equipment cabinet mounted on the pole.

5. **LOCATION.** The location of the two wireless facilities are as follows:

1	Project No. R2013-02657-(3) CUP No. 201300139	24816 ½ Mulholland Highway (Adjacent to APN 4455-019-027)
2	Project No. R2013-02658-(3) CUP No. 201300140	24603 ½ Mulholland Highway (Adjacent to APN 4455-033-909)

6. **SITE PLAN DESCRIPTION.** The site plan for project site 1 depicts a wireless telecommunications facility located on a 64.5-foot utility pole within the Mulholland Highway public right of way. The elevations depict two whip antennas located approximately 26-feet from grade and the equipment cabinet mounted on the pole at approximately 9-feet above grade. The site plan for project site 2 depicts a wireless telecommunications facility located on a 61-foot utility pole located within the public right of way. The elevations depict two panel antennas located approximately 27-feet above grade and the equipment cabinet mounted on the pole at approximately 9-feet above grade.
7. **EXISTING ZONING.** Both of the wireless telecommunications facilities are located in the public right-of-way along Mulholland Highway. Pursuant to Section 22.16.020, the zoning for the properties adjacent to the project sites extend to the centerline of the right-of-way; therefore, the zoning for the project site and surrounding zoning are as follows:
- |   |   |  |
|---|---|--|
| 1 | Project No. R2013-02657-<br>CUP No. 201300139 | A-1-1. Surrounding zones are A-1-1 in all directions.                                    |
| 2 | Project No. R2013-02658-<br>CUP No. 201300140 | O-S-DP. Surrounding zones are A-1-20 to the west and OS-DP to the south, east and north. |
8. **EXISTING LAND USES.** Both of the wireless telecommunications facilities are located in the public right-of-way along Mulholland Highway and are mounted on existing utility poles. The land uses that surround the project sites are as follows:
- |   |  |   |
|---|--|---|
| 1 | Project No. R2013-02657<br>CUP No. 201300139 | Single-family to the north, south, east and west.   |
| 2 | Project No. R2013-02658<br>CUP No. 201300140 | Undeveloped to the east and north, King Gillette Ranch to the west and vacant land and single-family residences to the south. |
9. **PREVIOUS CASES/ZONING HISTORY.** Project site 1 was approved by CUP No. 03-200-(3) and project site 2 by CUP No. 03-202-(3). Both CUPs were approved on April 7, 2004 and will expire on April 7, 2014.
10. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** Project site 1 is located within the Residential 1 (6) land use designation and project site 2 is located within the Rural Land III (5) land use designation of the Malibu Local Coastal Plan. Unmanned wireless telecommunications facilities are not uses that are explicitly referenced in the Malibu Local Coastal Plan. While this type of use is not referenced, it is consistent with the aforementioned land use designations in that they preserve the aesthetic values by being mounted on existing utility poles and use colors that blend in with the surroundings. As the project does not propose any changes to the existing wireless facilities and there have been no new land use

policies regarding wireless facilities in the public right-of-way in these land use plans, the project is consistent with their respective land use plans.

The project is also consistent with the following policy of the Malibu Local Coastal Plan:

*"In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall: be visually compatible with and subordinate to the character of its setting; be sited so as not to significantly intrude into the skyline as seen from public viewing places."*  
(Policy 130, page 33)

The project preserves aesthetic value of scenic highways and skylines as the wireless facilities are mounted on existing utility poles. The wireless facilities are painted to blend in with the surrounding area and therefore result in negligible visual impacts.

#### 11. ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.

Wireless telecommunications facilities are not a defined use in the County Code; therefore, staff have used "radio and television stations and towers" as a comparable use. Radio and television stations and towers require a CUP in all zones. Both of the wireless telecommunications facilities are located in the public right-of-way along Mulholland Highway and are mounted on existing utility poles in the A-1 and O-S-DP zones. There are no applicable base standards that would apply to a wireless facility in the public-right-of-way; however, the facility is subject to the development standards in the Subdivision and Zoning Ordinance Policy No. 01-2010 for wireless telecommunications facilities.

Both of the wireless telecommunications facilities are compliant with the following applicable Departmental standards for wireless projects in the public right-of-way:

- **Height:** No wireless facility in the public right-of-way shall exceed 50 feet above grade level. The utility poles used to mount the wireless telecommunications facilities are 64.5-foot tall on project site 1 and 61-foot tall on project site 2. The wireless equipment is mounted at a maximum height of approximately 26 feet on project site 1 and approximately 27 feet maximum height on project site 2. Although the utility pole is higher than the maximum height permitted by the policy memo, the telecommunications facilities are lower than 50 feet above grade level permitted. Therefore, the project complies with this requirement.
- **Placement:** Wireless facilities in the public right-of-way shall not interfere or obstruct highways, trails, sidewalks or any other public or private access. The existing two wireless facilities that are mounted on exiting utility poles do not interfere or obstruct access to any highway, trail, sidewalk, or private or personal access. Therefore, the project complies with this requirement.

Parking standards: For uses that are not specified, County Code Section 22.52.1220, gives the director the authority to determine the amount of parking adequate to prevent traffic congestion and excessive on-street parking. The wireless facilities require periodic maintenance only and the maintenance vehicle may use the road shoulder for this purpose; therefore, no permanent parking space is required.

12. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The two wireless facilities do not negatively impact the areas or neighborhoods in which they are located. The two wireless telecommunications facilities have been in existence since 2004 and there has been no record of public complaints or zoning violations for any of the sites. The aesthetic impact of wireless facilities has been addressed by placing the facilities on utility poles in the public right-of-way. The wireless facilities also provide important communications infrastructure to rural areas of the County.
13. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.** The Los Angeles County Department of Public Works (DPW) was consulted on this permit request. The two wireless facilities were approved in 2004 and were required to obtain encroachment permits from DPW as they are located in the public right-of-way. The applicant provided records of the encroachment permits, and as the project is the continuation of an existing wireless facility with no proposed changes, DPW has stated that they do not require any further review.
14. **LEGAL NOTIFICATION AND PUBLIC OUTREACH.** Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.
15. **PUBLIC COMMENTS.** Staff has not received any comments at this time.

#### **CONDITIONAL USE PERMIT SPECIFIC FINDINGS**

16. Project site 1 is located within the 6-Residential 1 land use designation and project site 2 is located within the 5-Rural Land III land use designation of the Malibu Local Coastal Plan. Unmanned wireless telecommunications facilities are not uses that are explicitly referenced in the Malibu Local Coastal Plan. While this type of use is not referenced, it is consistent with the aforementioned land use designations in that they preserve the aesthetic values by being mounted on existing utility poles and use colors that blend in with the surroundings. As the project does not propose any changes to the existing wireless facilities and there have been no new land use policies regarding wireless facilities in the public right-of-way in these land use plans, the project is consistent with their respective land use plans.
17. The two wireless facilities were approved in 2004 and have been operating for 12 years without any record of public complaints or zoning violations for any of the

project sites. Both projects obtained the necessary encroachment permits for structures in the public right-of-way from the Department of Public Works. Additionally, the two facilities are located in rural, mountainous terrain and provide important communications infrastructure to these areas. Therefore, the requested uses at the locations proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

18. The two wireless facilities are located in the public right-of-way along Malibu Canyon Road and are mounted on existing utility poles and therefore there are no applicable zoning development standards. The two wireless telecommunications facilities are compliant with the Departmental standards for height and placement of wireless projects in the public right-of-way. Therefore, the proposed sites are adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.
19. The project is a request to continue the use and operation of two wireless telecommunications facilities. There are no proposed changes to the two facilities, and the project does not require any new public infrastructure to continue their use. Therefore, the proposed sites are adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

## **ENVIRONMENTAL DETERMINATION**

20. The project is a request to continue the use of two existing wireless telecommunications facilities that are located in the public right-of-way with no proposed changes to the project sites. Therefore, the project qualifies as a Categorical Exemption, Class 1 (Existing Facilities) and is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
21. Project site 1 is located within the Significant Ecological Area - Buffer Area (B5). The project was reviewed by the Significant Ecological Area Technical Advisory Committee (SEATAC) as required by Section 22.56.215.H.2 on December 2, 2013 and the project was approved as a consent item since it is an existing facility. Project site 1 meets the Burden of Proof for projects in an SEA as follows:
  - The requested development is located in the public right-of-way and the wireless facilities are mounted on existing utility poles; therefore, designed

to be compatible with the biotic resources present, including the setting aside of appropriate and sufficient undisturbed areas, and

- The requested development is designed to maintain water bodies, watercourses, and their tributaries in a natural state, and
- The requested development is designed so that wildlife movement corridors (migratory paths) are left in an undisturbed and natural state, and
- The requested development retains sufficient natural vegetative cover and/or open spaces to buffer critical resource areas from said requested development, and
- Where necessary, fences or walls are provided to buffer important habitat areas from development, and
- The roads and utilities serving the proposed development are located and designed so as not to conflict with critical resources, habitat areas or migratory paths

22. **TERM LIMIT.** To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grant to fifteen (15) years.
23. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13<sup>th</sup> Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits West Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

WITH RESPECT TO THE CONDITIONAL USE PERMIT

- A. That the proposed use will be consistent with the adopted general plan for the area; and
- B. That the requested use at the location proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize,

endanger or otherwise constitute a menace to the public health, safety or general welfare; and

- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

THEREFORE, the information submitted by the applicant and presented at the public hearing/meeting substantiates the required findings for Conditional Use Permits as set forth in Section 22.56.090 of the Los Angeles County Code (Zoning Ordinance).

**HEARING OFFICER ACTION:**

- 1. The Hearing Officer has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
- 2. In view of the findings of fact and conclusions presented above, CUP No. 201300139 and CUP No. 201300140 are **APPROVED**, subject to the attached conditions.

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12/4//2013

c: Hearing Officer, Zoning Enforcement, Building and Safety

**DRAFT CONDITIONS OF APPROVAL  
COUNTY OF LOS ANGELES  
PROJECT NOS. R2013-02657-(3), R2013-02658  
CONDITIONAL USE PERMIT NOS. 201300139, 201300140**

**PROJECT DESCRIPTION**

The applicant, Sprint Nextel, requests two conditional use permits ("CUPs") to authorize the continued operation and maintenance of two existing wireless telecommunications facilities consisting of antennas and equipment cabinets mounted on existing utility poles located in the Mulholland Highway public right of way. The two wireless facilities were established by CUP No. 03-200-(3) and CUP No. 03-202-(3), which will expire on April 7, 2014.

**GENERAL CONDITIONS**

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9, shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the



costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. **This grant shall terminate on January 21, 2029.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Conditional Use Permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within ninety (90) days from the date of final approval of the grant. A single thirty (30) day time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date. For the purposes of this provision, continued operation of the wireless facilities and satisfaction of Condition No. 2 shall be considered use of this grant.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$3,200.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **eight biennial** (one every other year) inspections for each facility for a total of **sixteen** inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
12. All development pursuant to this grant must be kept in full compliance with the County Fire Code, to the satisfaction of said department.
13. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works, to the satisfaction of said department.
14. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
15. The facility shall be maintained in good condition and repair, and shall remain free of: general dirt and grease; chipped, faded, peeling or cracked paint; trash, debris, litter, graffiti and other forms of vandalism; cracks, dents, blemishes and

discolorations visible rust or corrosion on any unpainted metal areas. Any damage from any cause shall be repaired by the permittee within 30 days of notice.

16. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

17. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.
18. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

#### **PERMIT SPECIFIC CONDITIONS - CONDITIONAL USE PERMIT (WIRELESS)**

19. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
20. Upon request, the permittee shall provide to the Zoning Enforcement Section of Regional Planning written certification that the radio frequency electromagnetic emissions levels comply with adopted Federal Communications Commission (FCC) limitations for general population/uncontrolled exposure to such emissions when operating at full strength and capacity. If other WTFs are located on the subject property or on adjacent parcels, the aforementioned report shall include the radio frequency electromagnetic emissions of said WTFs.
21. Insofar as is feasible, the permittee shall cooperate with any subsequent applicants for wireless communications facilities in the vicinity with regard to possible co-location. Such subsequent applicants will be subject to the regulations in effect at that time.

22. Any proposed WTF that will be co-locating on the proposed facility will be required to provide upon request the same written verification of emissions and include the cumulative radiation and emissions of all such facilities to the Zoning Enforcement Section of Regional Planning.
23. All structures shall conform to the requirements of the Division of Building and Safety of Public Works or other appropriate agency and obtain an encroachment permit if deemed necessary.
24. External lighting, including security lighting, shall be on motion sensors, be of low intensity, fully shielded and directed away from any adjacent residences. Pole mounted lighting is prohibited on the leasehold unless the facility is disguised as a light pole. Antenna lighting is prohibited. Beacon lights are prohibited unless required by the FAA.
25. If the subject property is adjacent to residences, construction and maintenance of the facility shall be limited to the hours of 9:00 AM to 5:00 PM, Monday through Friday. Emergency repairs of the facility may occur at any time.
26. Placement and height of all pole mounted equipment shall be in substantial conformance with that shown on said Exhibit "A".
27. The permittee shall maintain current contact information with the Zoning Enforcement Section of Regional Planning.
28. Upon request, the permittee shall submit annual reports to the Zoning Enforcement Section of Regional Planning to show compliance with the maintenance and removal conditions.
29. The project number, conditional use permit number and lease holder contact information shall be prominently displayed on the facility where it can be easily viewed at or near eye level.
30. This grant entitles the permittee to maintain the wireless telecommunications facilities on the existing utility pole but does not entitle the permittee to retain the pole for its sole use or to install a new pole for its facilities in the event the existing pole is removed, such as to accommodate the undergrounding of utilities. Notwithstanding the provision of Condition No. 8 if the existing pole is removed prior to the termination date of this grant, this grant shall thereupon terminate. The permittee will be required to either obtain a new conditional use permit to relocate its facilities or to install a new pole or poles and continue the use at the present location. Application for a conditional use permit at such time shall be subject to the regulations then in effect.
31. Upon termination of this grant or after the construction of this facility, the facility has ceased to operate; the permittee shall remove such facility and clear the site of

all equipment within six months of the cease of operation date. The permittee shall restore the site as nearly as practicable to the condition prior to the installation of the subject facility.

32. If the Department of Public Works requires the facility to relocate due to street improvement projects and undergrounding of utilities, the cost of relocation of wireless facilities due to such projects shall be fully borne by the owner, or permittee of the wireless facilities involved.
33. Maintain standard Americans with Disabilities Act clearances around all above ground wireless telecommunications equipment including poles within the public right of way to the satisfaction of Public Works, where applicable.

#### **PROJECT SITE SPECIFIC CONDITIONS**

34. This grant shall authorize the continued operation and maintenance of two (2) existing wireless facilities consisting of panel antennas and microcells mounted on utility poles and associated equipment cabinets on concrete pads at ground level located in the public right-of-way of Malibu Canyon Road.
35. The antennas and power equipment cabinets shall be painted and maintained with a neutral color excluding black to blend into and harmonize with the surroundings, shall not be glossy or reflective in nature, and shall be maintained in good condition at all times.
36. The finished surface of the wireless facilities shall not be glossy or reflective and shall be painted in a color that matches the soil surrounding the facility or if on a wooden pole, the color of the pole.



LA36XC409

Los Angeles County  
Department of Regional Planning

Planning for the Challenges Ahead



## CONDITIONAL USE PERMIT BURDEN OF PROOF

Pursuant to Zoning Code Section 22.56.040, the applicant shall substantiate the following:

*(Do not repeat the statement or provide Yes/No responses. If necessary, attach additional pages.)*

A. That the requested use at the location will not:

1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

The existing facility is collocated on a wooden utility pole located within the public right

of way and blends in with the rural character of the area. two omni whip antenna are mounted to a wood cross arm to match the wooden utility pole; the installation is not detrimental or visually intrusive to the abutting and surrounding area; nor detrimental to the enjoyment of the surrounding owners.

B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

Due to the rural nature and character of the area the existing facility is similar in scope, color and design of other existing wooden utility poles in the community. the site is virtually unnoticeable as a wireless facility given it's diminimus design and attachment to a wooden utility pole on a property that is adequate in size.

C. That the proposed site is adequately served:

1. By highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
2. By other public or private service facilities as are required.

the site's location is within the public right of way and easily accessible by fully improved roads.